



National Legal Aid & Defender Association

October 5, 2011 EQUAL JUSTICE.
OF THE PEOPLE.
FOR THE PEOPLE.

Rebecca Weir
Office of Legal Affairs
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007

Dear Rebecca:

On behalf of the National Legal Aid and Defender Association (NLADA), I want to thank LSC for the opportunity to comment on the report of the Fiscal Oversight Task Force, submitted to the LSC Board of Directors on July 28, 2011. These comments are submitted on behalf of NLADA by its Civil Policy Group, the elected representative body that establishes policy for the NLADA Civil Division, and its Resources Committee and Restrictions and Regulations Committee.

NLADA appreciates the significant efforts made by the Task Force to assess the current state of LSC's fiscal oversight efforts and to develop thoughtful recommendations to address what needs to be done to ensure that LSC meets its responsibilities as a grant-making entity responsible for distributing taxpayer dollars devoted to supporting those organizations that provide civil legal assistance to eligible low-income clients. NLADA subscribes to the basic recommendations of the Task Force report and supports the idea that LSC should take steps to enhance fiscal oversight of its grantees, while continuing its emphasis on assessing the quality of services that they provide to their low-income clients.

Nevertheless, we do have several concerns regarding the implementation of the Task Force recommendations, and we want to make sure that LSC takes these concerns into account as it considers whether to adopt the recommendations and how to implement those that it does adopt.

1. Staffing: The Report recommends that LSC staff increase its oversight of fiscal risk and of fiscal policies, procedures and capacity of grantees both prior to awarding grants and post grant awards. It will require considerable training and commitment by current LSC staff to learn new skills and changes in current LSC staff responsibilities to achieve this objective. Most LSC staff members were hired based on their background, skills and interests. Many came to LSC either because of a background in legal aid programs and a desire to improve program performance or with a clear expectation that they would be responsible for program compliance and enforcement. Very few current LSC staff members have expertise and interest in fiscal oversight. The training required and the changes in staff responsibilities should not be

underestimated. It may very well require different and perhaps new staff to really accomplish this objective.

2. Program Visits: The Office of Program Performance and the Office of Compliance and Enforcement have attempted a number of coordinated joint program visits without great success. Programs that were subjected to these joint visits stated that they were really like experiencing two concurrent but different visits at the same time, requiring double the preparation and resulting in twice the disruption. While it theoretically makes a great deal of sense to integrate program visits, adding a significant fiscal oversight aspect to existing program quality and compliance visits has the potential to become more like three separate visits happening at the same time. While each of the three pieces will focus on different aspects of the program's operations and will likely be addressed by different program staff, a triple focus visit will be terribly disruptive to program operations and may well be overwhelming to the program's executive director who will be expected to respond to inquiries relating to all three aspects of the visit. In order to make a combined visit efficient and limit disruption of program operations, LSC must take the time to plan to ensure that the visits are truly integrated into one simplified visit that focuses on the essential concerns regarding program operations. Furthermore the report suggests that LSC will do a risk assessment to determine the frequency of program visits, which may in some situations be "back-to-back," and could be as often as once a year. Unless there are serious fiscal issues identified, such frequent visits could be major disruptions for most programs and should be reserved for only the most egregious circumstances.

3. Applications for Funding (RFP): The Report recommends greater attention in the RFP process (Pre-Award) to fiscal management and an applicant's capacity to ensure fiscal accountability. We agree that this will be an improvement in the grant award process. However, we want to note that this will require significant revisions to the current grant application form which must be done carefully, with attention to additional burdens that any changes will make on grant applicants, both those who are applying for the first time as well as on current grantees. The revised application should be available very early in the funding process, and LSC should commit to explaining and working with current and prospective grantee programs in completing it, at least in the first several grant cycles. Adding fiscal management questions to the grant application is likely to be a major change and will take additional time and work for applicants to complete. It will also require additional space in the response to the application, which is already quite limited.

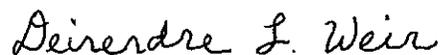
4. Training: The Report recommends that LSC engage in significant grantee training on issues of fiscal accountability and oversight. This will take considerable thought and effort by LSC staff most of whom are not currently expert in the field of fiscal oversight. LSC programs generally do not fail to comply with LSC rules, regulations and requirements intentionally, but have done so in the past because program staff did not fully understand LSC's expectations or requirements. Training, including periodic webinars by LSC, for program directors and senior management on program quality and regulatory compliance would have helped reduce these problems dramatically. Similarly, substantial training on fiscal accountability and oversight will

be essential if LSC expects its grantees to fully comply with fiscal controls and requirements. Without such training it is unrealistic for current program staff to learn, much less master, the intricacies of fiscal analysis and oversight requirements. If new program fiscal staff needs to be hired, we are concerned that the resources for these new staff members will come at the expense of basic field operations. In addition, it is essential that LSC have sufficient staff with the appropriate skills and experience to provide training on fiscal accountability and oversight. This may require LSC to hire new staff if those who are used to focusing on quality and compliance do not have the capacity to shift to a fiscal training mode.

5. Conflicts of Interest: The Report recommends that LSC identify, monitor and disclose conflicts of interest related to staff and grantees. Nowhere in the report does it really describe what it means by “conflicts of interest,” nor does it provide examples of such potential conflicts of interest. If the report is suggesting that someone from a current grantee who is hired by LSC should not have direct oversight or programmatic responsibilities related to that grantee for at least a reasonable period of years, as is required by some federal agencies, that rule may be quite appropriate. On the other hand, if the recommendation is intended to exclude applicants for employment with LSC who have had actual experience in the delivery of legal services, it will do a grave disservice to both LSC and its grantee programs. If anything, LSC needs to hire additional staff with senior program management experience. It is not clear how far, and exactly in what direction, this recommendation goes.

I hope that these thoughts are helpful to the LSC board and staff as it considers which of the Fiscal Oversight Task Force Report recommendations to adopt and begins its implementation of those recommendations that it does adopt. If you have any questions regarding these comments, please feel free to contact Linda Perle at 202-906-8002 or lperle@clasp.org.

Yours truly,



Deirdre L. Weir
Chair, Civil Policy Group